

MICHIGAN NATURAL RESOURCES TRUST FUND

BOARD OF TRUSTEES MEETING

Minutes of April 16, 2008  
Lansing Community College West Campus, 5708 Cornerstone, Lansing

The meeting of the Michigan Natural Resources Trust Fund (MNRTF) Board of Trustees commenced at 9:05 AM.

The following Board members were present:

Bob Garner  
Dennis Muchmore  
Lana Pollack  
Frank Torre

Mr. Charters was not in attendance due to being out of state.

Also in attendance were various staff members of the Department of Natural Resources (DNR) and other interested parties.

Chairperson Garner introduced the Board members to the audience. Mr. Jim Wood, Manager, Grants Management, DNR, introduced Mr. Dennis Fedewa, Chief Deputy, DNR and Grants Management staff to the audience. Mr. Tom Reichard, who was formerly with DNR's Office of Internal Audit, is now in Grants Management. Mr. Reichard is currently working on subrecipient monitoring, which is the auditing of subrecipients of federal grants.

Chairperson Garner also introduced Director Rebecca Humphries.

Ms. Pollack welcomed Mr. Reichard to the Grants Management. She wondered if there was a loss of an FTE or time dedicated to the position. She asked if Mr. Reichard's position is replacing Ms. Monica Day, a grant coordinator who recently resigned. Mr. Wood responded no, Mr. Reichard's position does not replace the grant coordinator's position.

I. ADOPTION OF MINUTES FOR THE MEETING OF FEBRUARY 20, 2008.

**MOVED BY MR. MUCHMORE, SUPPORTED BY MR. TORRE, TO APPROVE  
THE MINUTES OF THE FEBRUARY 20, 2008 MNRTF BOARD MEETING.  
PASSED.**

II. ADOPTION OF AGENDA FOR MEETING OF APRIL 16, 2008.

**MOVED BY MS. POLLACK, SUPPORTED BY MR. TORRE, TO APPROVE  
THE AGENDA OF THE APRIL 16, 2008 MNRTF BOARD MEETING.  
PASSED.**

### III. PUBLIC APPEARANCES.

#### Mr. Mike Homier, Foster, Swift Law Offices – Hartland Township, Livingston County – Proposed Conversion – TF98-007

Mr. Mike Homier, Foster, Swift Law Offices and general counsel to Hartland Township, made a presentation outlining a proposed conversion project in Hartland Township. Also in attendance with Mr. Homier was Mr. William Pung, Township Supervisor; Mr. James Wickman, Township Manager; State Representative Joe Hune; Ms. Ruth Dober, Secretary, Michigan State Youth Soccer Association (MSYSA); and Mr. Tom Frisbie, Executive Director, MSYSA.

Mr. Homier commended Grants Management staff for their assistance in the proposed conversion request.

Mr. Homier advised the Board that in 2001, Hartland Township acquired 64.86 acres along M-59, which is east of US-23 and located on the north side of Clinton Valley Road. Since 2001, the property has been open to the public, although it has been left in its natural state. In 1995, the township adopted its parks and recreation master plan and this property was included in the plan to be developed as park land.

The township was approached by the Michigan State Youth Soccer Association, who was inquiring about the possible purchase of 9.67 acres of the property. This acreage is located in approximately the middle of the property. The township had its planner develop a conceptual site plan. The planner analyzed the property to determine where in the property MSYSA's facilities would best fit. The reason this particular area was chosen was because of the natural topography of the land.

MSYSA plans to install a couple of outdoor soccer facilities and an approximately 6,000 square foot administrative building.

The township understands that because of the MNRTF funding that was used to acquire the property, they must get permission for a conversion to enable the sale to MSYSA. The township is committed to reinvesting the funds that they receive from the sale back into the property for development of the park.

The property was acquired in 2001 for \$900,000, of which \$345,000 which was provided by the MNRTF.

There have been multiple public hearings on the conversion proposal, as well as the parks and recreation master plan. The public is overwhelmingly in favor of the conversion request and sale to MSYSA. The township feels that this will enhance recreational opportunities throughout the township and county, and because of MSYSA's statewide presence, the public in general. MSYSA intends to hold regional soccer tournaments at the facility. With proceeds from the sale to MSYSA, the township intends to develop fields in and around the MSYSA soccer fields.

Mr. Homier further stated that the township proposes to mitigate the loss of recreation land with the addition of 12 acres of property located to the west of the property off of Clark Road and M-59. The mitigation property was originally intended for a sanitary sewer discharge area. Because of the nature of the sanitary sewer system in the

township, a regional cooperative agreement was entered into between Livingston and Genesee Counties to transmit sanitary sewer discharge to Genesee County. The township has proposed to reacquire this property from the sewer district by repaying the money for all the acreage, approximately 105 acres, and have proposed a plan to develop the mitigation property in conjunction with a larger parcel for park purposes. This would include pavilions, walking trails, Frisbee golf, etc.

The township believes the property is best suited for more active recreational uses, whereas the mitigation property is for more passive recreation.

Chairperson Garner stated that he would be interested to see what is on the west of the property. Also, he noted that Mr. Homier mentioned taking the proceeds from the sale and using it for development of the park. Funding for MNRTF acquisition and development projects are handled separately. Mr. Homier responded that if the Board would rather have the proceeds reinvested in the mitigation property that is purchased from the sewer district that could be accomplished.

Mr. Wood responded that property acquired with MNRTF assistance, Board Policy states that it be replaced with land of equal recreation value.

Chairperson Garner would like to have a plat map so the Board can see what is around the property. He also asked if MSYSA was trying to acquire the property in fee simple. Mr. Homier responded yes, they are trying to acquire the property in fee simple. There is a purchase agreement that has been executed between the township and MSYSA, with the contingency that the conversion is approved. The township has retained a first right of refusal on the property stating the property can only be used for recreational purposes. Chairperson Garner stated that if the township had a long-term lease of the property to MSYSA, there would not be a conversion. Mr. Homier stated that they will look at that aspect.

Ms. Pollack asked about the soccer investment of MSYSA and how many there were in the state. Mr. Homier responded that it is his understanding that MSYSA represents approximately 90,000 Michigan soccer players statewide. He believes at this time they only lease facilities for their administrative office, and do not themselves own any soccer fields now. Ms. Pollack asked if MSYSA had any outstanding gender-related litigation against them. Mr. Homier responded he is not aware of any.

Mr. Torre asked who owned the property to the left of the map that Mr. Homier provided. Mr. Homier responded that property was proposed for buffering. Mr. Torre pointed out another property on the map. Mr. Homier believes that that property is now vacant. Because this is located along M-59, there is a substantial amount of commercial development.

Mr. Muchmore asked what the township's view of hunting access is and how it relates to generally open access areas. Perhaps Mr. Homier could fill him on the township's policy on open access hunting and how it relates to this proposal. Mr. Homier responded that the township does not have any restrictions on hunting. They have not adopted any ordinance, restriction or regulation.

Chairperson Garner added that if the township got bonus points for hunting in the original acquisition application, there is a problem. Every time there is an occupied dwelling on the property, under State law that knocks out about 10 additional acres from the building where you cannot discharge a firearm. If the township got points for allowing hunting there, they should take a look at how the new property will be handled. Mr. Homier responded that he is reasonably sure they did not get the bonus points for hunting. Under the 1995 parks and recreation master plan, the township had proposed fields for this property at the time they applied for the grant. The property was going to be developed as active recreational fields.

Mr. Don B. Keith, Keweenaw County Board Chair – TF05-078, Addition to Gratiot River County Park

Mr. Don Keith, Keweenaw County Board Chair, made comments regarding TF05-078, Addition to Gratiot River County Park. This acquisition was awarded almost three years ago. He advised the Board that the county had three modifications they would like made to the project. These are:

1. **Enlarge the grant parcel from the original 100 acres and 4,000 feet of Lake Superior frontage to 122 acres and 4,489 feet.** This is not a request for additional funding. The county will acquire the larger parcel at the original cost.
2. **Restore the grant/match percentage to the original 75/25.** This ratio was erroneously changed because the county noted that the appraised value might be as high as \$3.4 million, and since the funding request would not change regardless of the appraised value, the grant match ratio might be as low as 57/43 percent. This is not a request for additional funding. The grant award remains at the original amount: 75% of \$2.6 million = \$1.95 million.
3. **Modify the wording of Item 5 to more accurately represent the application and award.** OLD WORDING: "To expand public recreation at the existing Gratiot River County Park, to protect the natural and scenic values of the Gratiot River, and to provide hunting opportunities." NEW WORDING: "To add acreage and Lake Superior shoreline to the existing Gratiot River County Park, to protect the natural and scenic resources of the addition, and to provide non-motorized recreation opportunities, including hunting and fishing, at the addition."

Chairperson Garner stated that he would like to get staff's opinion on these proposed modifications. The Board will not take any action on the modifications today.

Mr. Keith advised the Board that there have been some easement concerns regarding the property. He believes this issue has been thoroughly addressed with staff.

Mr. Keith also stated the county is appreciative of the North Woods Conservancy as they were instrumental in the county acquiring the original property. The local match that was used then was a federal grant consisting of Fish and Wildlife funds. For the current project, the 25% match is being totally donated.

Ms. Pollack stated that she feels the problem with this particular project is the value of the property relative to an easement. She was advised that if there is no motorized access to the land, then it cannot be appraised at the rate originally brought before the Board. This project was granted three years ago. The cost of property along the lake continues to rise, and there still is no agreement on the property value. She asked that, in the future, when properties are brought before the Board, she would like to see the appraisals on certain parcels before funds are set aside. She wants to make sure staff deals with all issues of acquisition projects.

Mr. John Griffith, President, North Woods Conservancy – TF05-078, Addition to Gratiot River County Park

Mr. John Griffith, President of North Woods Conservancy, made comments regarding TF05-078, Addition to Gratiot River County Park, Keweenaw County. He expressed the fact that Keweenaw County has 2300 residents and would not be able to acquire this property without the assistance of the MNRTF program and is very appreciative.

Mr. Griffith stated that the North Woods Conservancy is a partner with Keweenaw County as they are providing the 25 percent match by donation. This is somewhat confusing as the North Woods Conservancy is also the seller of the parcel and it has the appearance of a conflict of interest. He has advised the Board of this fact in the past.

One of the things he would like the Board to do is let staff talk to him directly. It has gotten to the point when Mr. Griffith has something to say to the staff, they will not talk directly to him. As a result, Mr. Griffith has to ask Mr. Keith to correspond with staff to get answers. He acknowledges that there is the appearance of a conflict of interest as to the Conservancy being the interim owner/seller, but the Conservancy is also a grant partner with the county. It would be nice to clear that issue up.

The three modifications made by Mr. Keith were requested of the MNRTF Board and staff 18 months ago. This is not a new request. Each time we have addressed these issues, staff has directed us to solve the easement issue first. He has pointed out that the North Woods Conservancy cannot sell the parcel for less than the project value and less than the percentage.

Mr. Griffith pointed out that in November of 2007 they received a letter from Grants Management staff for two appraisals that had been provided. He quoted a statement from the letter: "The easement supports the conclusions made by Timothy Seaton and Mary Forsberg which determined the highest and best use to be residential development. Our review appraiser, Ken Stock, has completed his review of all of the appraisals and the easement that was submitted, and his comments are as follows:.....". In November, they were all set to go ahead with the acquisition, but these two appraisals did not reach the project value that was required by the Conservancy (75% of the \$2.6 million).

Even though the Conservancy completely disagrees with that assessment, and the county had gotten three or four appraisals, all of which were appraised above \$2.6 million, none was accepted by DNR's appraiser, Mr. Stock. As a result, more property was added to the project to make sure it was appraised at the correct value. Mr. Griffith pointed out the property and easement via a map provided to the Board.

The appraisal was submitted and accepted and then there was a problem with an easement, which had been accepted in October.

Mr. Griffith informed Ms. Pollack that he does not feel there is a valuation problem any longer. The question now is whether or not the easement provides the access that is required to support the highest and best use of residential development.

Mr. Griffith further stated that in the most recent communication with Grants Management they stated there was four problems with the most recent iteration of the easement that the county had provided.

- 1. The legal description for the two servient parcels [in Section 13] are corner to corner and would not allow an access easement from one parcel to the other.**

Mr. and Mrs. Griffith personally own property in Section 13 across where the easement is crossing, so they would donate. The Conservancy owns the rest of it and would have to donate, as well. Staff questioned how could you grant an easement across property you do not own. The fact is we own the easement; however, the other piece in Section 13, which is the south half of the northeast corner, that goes through Conservancy property. To solve the issue, we added that parcel owned by the Conservancy as another servient parcel. He believes this problem has been solved. There is a contiguous route through Section 13.

- 2. Part 6 in both easements is not acceptable, the long-term commitments of the MNRTF program would not obligate a potential developer, nor would a developer be restricted from exercising the easement because it violates the terms of a grant to the county.**

It is felt that DNR staff may have misread Part 6. It is describing the easement and not the benefited parcel. Staff is correct that the easement cannot in any way dictate use of the benefited parcel. To avoid confusion, the wording of Part 6 has been modified to read: *“The Grantors convey this Easement in support of a Michigan Natural Resources Trust Fund Grant (Grant No. TF 05-078; hereinafter “the Grant”) awarded to the County, the proceeds of which have been used by the County to purchase the Benefited Parcel to protect scenic and natural resources and provide non-motorized recreation opportunities within the Benefited Parcel in accordance with the Grant application and Grant project agreement. Particularly, the Easement is granted by the Grantors to support the highest and best use appraised value of the Benefited Parcel and for that purpose only, and with the understanding that this Easement will almost certainly not be exercised, and will be exercised only if the County sells the Benefited Parcel in contravention of the terms and purposes of the Grant.”*

This statement is not correct. The entire easement route passes through the Griffiths' property and the North Woods Conservancy property and then into other North Woods Conservancy property, all of which currently supports non-motorized trails. Neither the Griffiths nor the county want a road down into the additional parcel. Currently right where the easement starts there is a public

parking and trailhead. Everyone can access all of Section 13 and all the way into Section 12.

Chairperson Garner stated that in order for the county to get the property appraised to where the deal can be accepted, it has to be written as though it is a motorized area. What Mr. Griffith is doing is putting in caveats with the understanding that it is not going to be used that way. Mr. Griffith stated that he is not. That has to do with the easement itself and not the parcel. The easement says it grants full access for residential development purposes on this route.

- 3. Sellers will not dictate to the county, heirs, successors, assignees, transferees, that motorized vehicles within the benefited parcel will not be permitted.**

This is agreed upon completely. It is felt, again, that DNR staff has misread Part 6. It is about the easement and not about the benefited parcel. The easement is to provide motorized access for residential development in support of the highest and best use appraised value, and will be utilized only if the county sells the parcel to a developer.

- 4. If a survey of the easement route has not been performed and a chosen route is not specific, the document will permit the buyer's heirs, assignees, transferees, etc. the ability to select an alternate route if physical, legal or cost detriments occur.**

This does not contradict the intent of the original wording. There is an existing two track to the benefited parcel, but the existing route is not direct and it is presumed that in the event of residential development, a more direct route would be preferred by the developer.

Mr. Griffith asked the Board to conditionally approve the acquisition project based on resolution of the easement issue. This needs to be resolved within the next few days and close on the property. In October, Mr. Griffith was advised that there was no problem with the property and that there were a few minor problems with the easement. We resolved the easement issues, and in November he received a letter that said they were good to go. There were no problems with the easement. We got the new appraisal because more property was added to get the property value and now there is problems with the easement.

Ms. Pollack asked staff to see why a conditional approval could not be made today. Mr. Fedewa responded that staff still has some issues. The modifications in language were only given to staff late yesterday. Staff would prefer to get some counsel with the Attorney General, in our due diligence, if this is acceptable in order to justify the highest and best use of the property in the appraisal based on the intent. As far as the conditional language, Items 1 and 2 are not necessarily problematic for the staff. Item 3, adding the word "non-motorized" is an issue of the potential use of the property and access. Mr. Wood added staff does not have an issue with conditional approval of Items 1 and 2.

Mr. Muchmore stated that he takes issue with one thing that was mentioned. He feels this project will not be approved until it is deemed acceptable from the Attorney General.

Mr. Griffith advised Mr. Fedewa that Item 3 was not his language, but rather a paraphrase of the application that was made by staff. The language the county has suggested actually is a more accurate representation of the original grant application, which specifically mentioned non-motorized recreational opportunities. Mr. Fedewa asked what is fundamentally needed for the closing—Items 1 and 2? Mr. Griffith responded yes.

Mr. Griffith also stated when he first saw the project agreement in late 2006, he asked staff about item 5 of the agreement. He was informed that it was a summarization, and that if anyone goes back to review, they would go back to the project's grant application. Understanding that, since it did not make any difference in the agreement, we thought that it should be made accurate. Mr. Fedewa responded that there is an equal likelihood by adding that it even ties in with the fact that if you have less than full and unfettered access, which includes motorized, whether the county ever intends to use it or not, although not in the easement language itself, it may now be a higher threshold as further binding of the staff and the legal interpretation of the Attorney General.

**MOVED BY MR. MUCHMORE, SUPPORTED BY MR. TORRE, FOR STAFF TO EXPEDITE THE REMAINING ISSUES INVOLVING PROJECT TF05-078, ADDITION OF GRATIOT RIVER COUNTY PARK, KEWEENAW COUNTY, TO ALLOW CLOSING OF THE PROPERTY.**

Ms. Pollack asked if Items 3 and 4 necessarily are deal-breakers? Mr. Griffith responded Item 3 is not the critical item; however, unless the Attorney General has some objection to the wording, he would like this reviewed. The county would prefer this language. The current county board would like to provide as much protection to the property as they can. He cannot speak to what a future county board would do.

Mr. Griffith further stated he completely understands the real estate needs, but he feels it is ironic to have what is basically a conservation project, and the entire focus of the Real Estate Division staff has been to preserve the development rights. He would like to see the MNRTF program allow conservation easements on certain types of acquisitions. Chairperson Garner wanted to express to Representative Lahti that the MNRTF Board was in favor of this project and wants to see it completed.

**MOTION AMENDED TO PROVIDE CONDITIONAL APPROVAL OF ITEMS 1 AND 2 AS PRESENTED BY MR. GRIFFITH. PASSED.**

Representative Michael A. Lahti – TF05-078, Addition to Gratiot River County Park, Keweenaw County

Representative Michael A. Lahti made comments regarding TF05-078, Gratiot River County Park, Keweenaw County. He stated this is a good project and wants to see this project completed. The county wants to make sure the appraisal stands for the value of the property and the appraiser stands by it. He feels it is now a matter of a proper easement being approved that will hold its value and still allow visitors to use.

#### IV. OLD BUSINESS.

##### Board Policy 92.3 – Site Names

Mr. Wood advised the Board that at their February 20, 2008 meeting, a revised Board Policy 92.3 regarding site names was provided for discussion. Since that meeting, DNR staff has had an opportunity to meet with several groups—Michigan Recreation and Park Association, The Nature Conservancy and various other interested groups. There has been a lot of discussion with these groups, as well as some Board members.

Mr. Wood further stated that staff is not asking the Board to take action on the revised Board Policy at this time. This issue will be brought back to the Board for approval pending additional discussion and review.

Mr. Fedewa advised the Board that there are two sides to the naming policy—the DNR side, getting Board consult in the process; and the local side. One of the options for the local side is either nothing is done or we prohibit everything. In having discussions with individual Board members and staff, an equally supportive position for the local side is to insist upon Trust Fund Board recognition of some kind. Staff wanted to review this further and wanted to have a discussion at the Board's next meeting.

#### V. NEW BUSINESS.

##### 2008 Application Cycle – Applications Lists

Ms. Deborah Apostol, Unit Manager, Recreation Grants, Grants Management, DNR, outlined the 2008 application lists. She informed the Board that in their packets are lists of 2008 applications by county. The Board has been provided with additional lists containing descriptions. There were 32 acquisition applications, requesting \$32.8 million; and 104 development applications, requesting \$25.6 million received.

Ms. Apostol stated that before the June meeting, the Board will be provided with notebooks containing boundary maps, site plans, need statement and a summary sheet of each project.

At the June Board meeting, selected applicants are invited to attend to make a presentation outlining their project. There are usually 8 to 10 applicants invited, who are selected by the Board and staff. If the Board has any applicants they would like to have invited, please provide this to staff. Chairperson Garner stated he has asked that Tuscarora Township be invited to make a presentation. This is a trail development project partnering with the Michigan Department of Transportation.

Ms. Pollack stated that her interests are in having a more direct review of the applications that are asking for the most funding.

Chairperson Garner stated that if the Board has any applicants they would like to have make a presentation at the June Board meeting to contact Linda Harlow or Deborah Apostol.

TF06-204, Camp Swampy Acquisition-Diamond Lake County Park, Newaygo County –  
**PROJECT CHANGE REQUEST**

Ms. Lisa McTiernan, Grant Coordinator, Grants Management, DNR, outlined a project change request for TF06-204, Camp Swampy Acquisition-Diamond Lake County Park, Newaygo County. The landowner of the property, Steelcase, Inc., has offered to gift an additional 4.69-acre parcel to the county as part of the project. There would be no change in the MNRTF grant amount or the county's match.

Mr. Wood also added that Board Policy requires that any additions of land to a MNRTF project be approved by the Board.

**MOVED BY MS. POLLACK, SUPPORTED BY MR. TORRE, TO APPROVE  
THE PROJECT CHANGE REQUEST FOR TF06-204, CAMP SWAMPY  
ACQUISITION-DIAMOND LAKE COUNTY PARK, NEWAYGO COUNTY.  
PASSED.**

Senate Bills 1164 and 1184 – Mr. Dan Eichinger, Acting Legislative Liaison, DNR

Mr. Dan Eichinger, Acting Legislative Liaison, DNR, outlined Senate Bills 1164 and 1184 for the Board's information. These bills were introduced in March by Senators Kahn and McManus. As proposed, these bills would change the manner in which oil and gas is developed and leased within the state.

Senate Bill 1164 creates a public body corporate, the "Clean Energy Authority", which is an autonomous entity within the Department of Treasury. The Authority would consist of five members appointed by the Governor, with the advice and consent of the Senate. The Authority would exist as a quasi-corporate entity whose purpose would be to become a working interest in the development and exploration of the oil and gas resources of the state. Their powers and duties include making grants, loans, the authority to issue bonds, borrow money, acquire, convey, lease or mortgage property which includes oil, gas and mineral resources, as well as working interest in oil and gas property.

The bill also creates a "Clean Energy Fund". This fund can be populated from monies appropriated by the state, or monies derived from its working interest in oil and gas property. The DNR would be charged with developing and implementing a statewide integrated energy resource plan in conjunction with the Authority. Also, the DNR would be required to develop a plan with the Authority that would promote the lease of state-owned land that could be used for storage of captured greenhouse gases.

Senate Bill 1184 describes the relationship the DNR will have with the "Clean Energy Authority" created in Senate Bill 1164. This bill requires the DNR to:

- Provide the Authority with an inventory of all contracts, including oil and gas leases, for the taking of oil and gas from state land. This includes date lease was executed, legal descriptions of lands included in the lease, names and addresses of current lessees, primary term of the lease, whether the lease is currently in effect and if not, the date of termination and date of individual release of parcels within the lease.

- Enter into contracts, including oil and gas leases, with the Authority for the taking of oil and gas from any state-owned land identified by the Authority, as long as the desired land is not producing, permitted or already leased as of the date of the application.
- Upon receipt of an application from the Authority describing lands it desires, the DNR would be required to enter into a direct lease with the Authority for a seven-year primary term and a 1/6<sup>th</sup> royalty rate. These contracts and leases would not be subject to the review or approval of the State Administrative Board.
- At least 180 days prior to offering to enter into a contract or lease that includes taking oil and gas from state-owned land with any other person, through competitive public auction or otherwise, would require notice to the Authority. If the Authority submitted an application for the lease covering that land within 180 days from the notice of auction, the DNR would be required to lease that land to the Authority. This means that the Authority has the right to preview any lands that other oil and gas producers have nominated and gives them the opportunity to obtain the land 180 days before them.

Upon review by staff, the DNR does not support this bill. There is no perceived advantage for the state, the MNRTF or DNR programs. It is contrary to the interest of citizens and business interests in Michigan and contains numerous flaws which include:

- The requirement for the DNR to provide the required leasing information is not feasible. Historical information for expired leases prior to approximately 2002 may not exist. The staffing requirements to develop this information are substantial and unfunded. Time devoted to this project would reduce time available to serving the lease management needs of the oil and gas industry.
- The Authority may lease any lands it identifies. This could include mineral lands not inventoried by the DNR, including lands controlled by the Michigan Departments of Transportation, Management and Budget, Military and Veterans Affairs and State Police. Currently, when lands owned by another state agency are nominated for direct lease, the nominator must provide evidence of state ownership with their nomination in order to obtain a lease. The DNR does not have mineral ownership records for all state agencies, and does not have the resources to obtain this information. This bill does not address who would be responsible for providing ownership information for minerals owned by other state agencies.
- The language of the bill compels the DNR to lease any lands the Authority applies for. There is no provision for considering the appropriateness of leasing in areas where there may be negative impacts to the resources. Examples include the Pigeon River Country, Jordan Valley Management Area, Sand Lakes Quiet Area, state parks, islands and critical dunes. There is no provision which allows for an exception to address those oil and gas rights acquired by the state with a restrictive deed that does not allow for oil and gas leasing. There is no provision acknowledging that leases should be classified as to the extent and

type of development which is appropriate and will not cause negative impacts to the state's natural resources.

- The bill requires a seven-year primary term for direct leases issued to the Authority. This gives an advantage to the Authority over oil and gas producers whose primary term for direct leases cannot exceed a maximum of a three-year primary term. Auction leases only have a primary term of five years.
- The bill allows for a 1/6<sup>th</sup> royalty rate on all Authority direct leases. Currently, royal rates for direct leases are negotiated for that market rate with a minimum royalty rate of 3/16ths. The bill does not address what, if any bonus the Authority will pay to the DNR for leases it acquires. Currently, the bonus paid by industry for direct leases is negotiated at market rate. The minimum bonus at auction is for \$13.00 per acre. The bonus may be bid up significantly higher at the auction for the right to obtain a lease. Bonuses typically contribute \$1-\$2 million per year to the MNRTF.

Chairperson Garner stated that this has a direct impact on the MNRTF. There would be \$2 million in bonus payments per year out of the MNRTF. Mr. Eichinger responded that this bill package is not merely inconvenient for the DNR, but it changes the mineral management perspective. For the MNRTF Board it would have a real dollar impact for communities across the state.

Mr. Eichinger continued by stating the following additional flaws with this bill:

- The bill allows the Authority to review nominated parcels prior to the DNR entering into any lease contract with another party. This gives the Authority the right of first refusal to lease properties by the oil and gas industry. The oil and gas industry may invest significant resources to develop prospects and nominate lands for leasing just to have then taken away by the Authority. Nominators are currently required to submit a nomination fee. The bill does address what happens with the nomination fee if the nominator has no opportunity to obtain the lease because the Authority decides to lease the property. Also, the bill would significantly delay the auction and direct leasing processes, reducing the overall efficiency of the oil and gas program for the state.

Chairperson Garner asked if the Michigan Oil and Gas Association has any position on the bill. Mr. Eichinger responded that he feels it is safe to say that the Michigan Oil and Gas Association would vigorously oppose this bill. The Michigan United Conservation Clubs has come out very strongly in opposition.

Mr. Eichinger advised the Board that the Michigan Public Service Commission has been designated by the Governor's office as the lead agency for Senate Bill 1164 and the DNR has been working closely with them to coordinate opposition to this bill. The DNR is the lead agency for Senate Bill 1184. He has had a conversation with Senator McManus's staff, and they have indicated that many concerns have been raised by their constituents. He does not expect any action on the bills at this time.

Ms. Pollack stated that the bill proposes to raise the royalty rate. She wondered what the process was for setting the state's royalty percentage and when has it last been

reviewed. Mr. Fedewa responded that currently the percentage is 1/8<sup>th</sup> and the proposal is to raise it to 1/6<sup>th</sup>. Ms. Pollack wondered how that is determined, by whom and how often. Mr. Fedewa thought it was governed by statute, but he does not know for sure. Ms. Pollack stated that since that is the revenue stream for everything the MNRTF does, it would be prudent for the Board to ask staff to look at this and provide a report and then the Board can make an assessment whether there might not be some opportunities to enhance revenues to the MNRTF. Mr. Fedewa responded that the DNR will be doing a bill analysis on Senate Bill 1184. That analysis will then be coordinated with Senate Bill 1164 so it can be a combined bill analysis. That will be shared with the Board as soon as it is completed.

Chairperson Garner also asked if Mr. Fedewa could provide how the mandated 1/8<sup>th</sup> percentage was determined and what it takes to change it. Mr. Fedewa responded yes; normally these analyses have a historical context.

Ms. Pollack does not feel these bills have a chance of passing; however, she would like to know how the percentage on the royalty is determined. Mr. Fedewa responded that this will be included.

Mr. Muchmore stated that any time you have eight senators sponsor a bill, you are quite a ways along. Any time a bill is longer than three pages, there is something in it that you don't know about. What troubles him the most about this bill is it would destroy the MNRTF because it removes the funding sources in the long run. He does not feel that the sponsors thought that that was what they were getting into.

Mr. Eichinger also mentioned that the appropriations bill for the 2007 MNRTF projects is in Capital Outlay. There has not been any House action, but he has heard that they want to move the Capital Outlay bills out by June 1.

Chairperson Garner urged local units of government who were in attendance today to contact your legislators to get the bill containing the 2007 MNRTF projects passed.

## VI. STATUS REPORTS.

### Open Projects Status Report

Mr. Wood stated that at their February meeting, the Board had asked for a status of all open projects. This report has been provided. The Board will be receiving updates on projects.

### MNRTF Lump Sum and Line Item Department Projects

Ms. Pollack had a question regarding TF04-129, Brule/Menominee River Corridor Initiative and wondered why this project was still open. The project was granted \$1 million and still has a balance of almost the entire grant. Mr. Ed Meadows, Manager, Real Estate Services, Office of Land and Facilities, responded that there is an offer out to the seller and the seller is in the process of identifying property they want to exchange. We cannot close until certain limitations with respect to 1031 rules. It is hoped that this will be completed.

## Financial Report

Mr. Wood stated that the figures outlined in this report are estimates. The Board will be advised of all updates.

### VII. OTHER MATTERS AS ARE PROPERLY BROUGHT BEFORE THE BOARD.

Mr. Rich Bowman, Director of Government Relations, The Nature Conservancy, advised the Board that at 3:00 PM today The Nature Conservancy is going to be holding a joint press conference with Senator Birkholz and Representatives Lindberg and Warren. The Senate and the House are both in the process of passing resolutions to declare next week as "Conservation Week" in Michigan. This is the second year this has been done. Last year the focus was on hunting and fishing, and this year it will be on land protection. There are a number of events happening around the state sponsored by a number of organizations who will be announced at the press conference.

The Nature Conservancy is officially releasing its white paper which was provided to the Board in draft format two months ago. In response to the white paper, he had also informed the Board of legislation that he has had discussions with some members of the Legislature related to changes in the MNRTF, specifically giving the MNRTF Board the ability to issue revenue bonds for larger projects and also changing the savings and spending available ratios. The bills are being circulated right now for co-sponsorship, and will probably be introduced tomorrow to place the constitutional question on the ballot in August. That will be announced at the press conference.

The Nature Conservancy will be joined at the press conference with colleagues from Heart of the Lakes who have been doing some work with Representative Sheltroun and Senator Stamas on tax credit legislation for donations of easements to either public or private entities.

The press conference will be in the Farnum Building.

Ms. Pollack stated she is glad that "Conservation Week" this year is going to be dedicated to raising awareness on preserving open space of park land. She further stated that when we see something that has been dedicated to the public forever and then the land is being developed, if we don't stand up and fight it, it makes the whole thing useless.

Ms. Pollack further stated that regarding the Keweenaw County project, she is not criticizing staff, but wondered how many ways can it be written what the intention is. The intention is to keep this land wild and in its natural state forever. Regarding the Jean Klock Park in Benton Harbor, the Klocks, who donated the land for the park, did not write that well enough. We are in a real battle to protect the principle. She hopes Mr. Bowman's and other organizations would help with this.

Mr. Muchmore asked Mr. Bowman, in reference to the draft white paper, about the MNRTF's authority to issue bonds. This carries with it an automatic 6 percent administrative fee, as that is how the bonding authority works. Mr. Bowman responded that one of the things that he wanted to make clear was that The Nature Conservancy is not necessarily saying that the MNRTF should ever bond. What we are saying is that there have been other states where bonding has been an important investment tool for

natural resources at particular times for particular projects. We only want to give the MNRTF this tool.

VIII. ANNOUNCEMENTS.

The next meeting of the Michigan Natural Resources Trust Fund Board is scheduled for 9:00 AM, Wednesday, June 18, 2008, at Northpointe Inn, 1027 South Huron Street, Mackinaw City, Michigan.

IX. ADJOURNMENT.

**MOVED BY MS. POLLACK, SUPPORTED BY MR. TORRE, TO ADJOURN THE MEETING. PASSED.**

The meeting was adjourned at 10:50 AM.

\_\_\_\_\_  
Bob Garner, Chairperson  
Michigan Natural Resources Trust Fund  
Board of Trustees

\_\_\_\_\_  
James Wood, Manager  
Grants Management

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DATE